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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,186	12/08/2003	Anthony A. Ruffa	83134	2141

23523 7590 11/18/2004

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EXAMINER

VAN, QUANG T

ART UNIT PAPER NUMBER

3742

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/730,186

Applicant(s)

RUFFA, ANTHONY A.

Examiner

Quang T Van

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-6, 11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3, 5 and 6 is/are allowed.
- 6) ☒ Claim(s) 4, 11 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> . |

Continuation of Attachment(s) 6). Other: Official Translation of JP08171987A.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 4 and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Shirakawa (JP 08171987A). Shirakawa discloses a microwave oven comprising a transducer (25) positionable on a surface within the microwave oven (1), wherein the surface support the container (6) for the liquid, said transducer (25) responsive to a source of energy such that said transducer (25) vibrates the surface thereby nucleating and allowing liquid to boil. It is inherent that the liquid is prevented from superheating; and wherein said transducer operates at ultrasonic frequencies (see an Official translated by the Ralph McElroy Translation Company). With regarded to claim 11, "wherein the operation of said transducer is responsive to the operation of a timer". In the Official translated by the Ralph McElroy Translation Company, page 9, par. 0036, discloses the operation of ultrasound generator (25) is responsive to the operation of a timer.

3. Claims 3, and 5-6 are allowed.

4. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not show or suggest said transducer is capable of

being energized by a pulsed impulse with sufficient amplitude to boil the liquid as recited in claims 3 and 5-6.

Response to Amendment

5. Applicant's arguments filed 9/20/04 have been fully considered but they are not persuasive.

Applicant argues that "Shirakawa reference recites the possible use of a sonicator 25 as an oscillating means" recited in Response to the Action, page 13, lines 7. In the Official translated by the Ralph McElroy translation company, "sonicator means ultrasound generator. Therefore, it is inherent that the ultrasound generator 25 is operated at ultrasonic frequencies.

Applicant also argues that "the operation of the sonicator whether alone or as suggested in conjunction with the turntable does not teach nor suggest the use of a timer to activate the transducer after a present amount of time in the event that the container is left in the microwave oven the microwave oven has finished heating the liquid" recited in Response to the Action, page 14, lines 14-18. In claim 11 claimed "wherein the operation of said transducer is responsive to the operation of a timer" recited in lines 11-12. There is nothing in claim 11 that mentioned about "a timer to activate the transducer after a present amount of time in the event that the container is left in the microwave oven the microwave oven has finished heating the liquid". Shirakawa reference discloses the operation of said transducer is responsive to the operation of a timer (Official translated by the Ralph McElroy Translation Company, page 9, par. 0036).

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang T Van whose telephone number is 703-306-9162. The examiner can normally be reached on 8:00Am 7:00Pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 703-305-5766. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



QV

November 8, 2004



Quang T Van
Primary Examiner
Art Unit 3742